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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,234	03/14/2001	Bernard Paul Joseph Thiers	THIE3001/JEK	2131

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314

EXAMINER

MCDERMOTT, KEVIN

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 02/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/805,234

Applicant(s)

THIERS, BERNARD PAUL
JOSEPH

Examiner

McDermott, Kevin

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities:

- a. Page 2, lines 16-17 do not appear to make sense.
- b. Page 4, line 15. It appears that "Small" should be corrected to --small--.
- c. Page 6, lines 4, 13-14, and 17 each recite "MDF or HDF". What do these abbreviate?
- d. Page 7, line 5. It appears that the period in the middle of line 5 should be removed.
- e. Page 9, lines 18-20. Please begin the description for each figure as a separate paragraph.
- f. Page 10, lines 1-2 do not appear to make sense.
- g. Page 14, line 7. It appears that "the interlocked" should be corrected to --be interlocked--.
- h. Page 15, lines 3-5 do not appear to make sense.
- i. Page 16, lines 19-20 do not appear to make sense.
- j. Page 18, lines 12-14 do not appear to make sense.
- k. In the Abstract, please remove all numerical references and accompanying parentheses.

Appropriate correction is required.

Claim Objections

Claim 8 objected to because of the following informalities:

a. Claim 8, line 3, recites "laver". It appears that "Laver" should be corrected to --layer--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The claims are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with unclear phrases, some but not all are as follows:

a. Claim 1, line 9 recites "and/or". Examiner considers this indefinite because It does not clearly define which alternative applicant wants.

b. Claim 1, line 11 recites "near". Examiner considers this indefinite.

c. Claim 1, lines 11-12 do not make sense.

d. Claim 4, line 2, recites "on the order of". Examiner considers this indefinite.

e. Claim 5, line 3, recites "near". Examiner considers this indefinite.

f. Claim 7, line 2, recites "bevels". There is insufficient antecedent basis for this limitation in the claim.

g. Claim 10, line 4, recites "near". Examiner considers this indefinite.

h. Claim 12, line 11, recites "and/or". Examiner considers this indefinite.

i. Claim 17, line 2, recites "an imaginary extension". Examiner considers this indefinite.

j. Claim 17, line 4, recites "or at most just touches it". Examiner considers this language indefinite.

k. Claim 17, lines 1, 2, and 4 recite the limitations "each bevel", "the bevel", and "the bevel", respectively. There is insufficient antecedent basis for these limitations in the claim.

l. Claim 22, lines 1-2 do not appear to make sense. Should "at least on a plurality" be --one of a plurality--?

m. Claim 22, line 13, recites "may be". Examiner considers this to be indefinite.

Claim Rejections - 35 USC § 102

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 6, 9, 19-21, and claims 1, 7, 8, and 22 as best understood, are rejected under 35 U.S.C. 102(a) as being anticipated by Moriau. Moriau is directed towards a floor covering made of hard floor panels.

Regarding claim 1, as best understood, Examiner considers Moriau as clearly anticipating all the features of claim 1, because the floor element discussed in Moriau and shown in figures 22 and 23 is identical to the invention.

Regarding claim 6, Examiner considers Moriau as clearly anticipating all the features of claim 6, because the floor element discussed in Moriau and shown in figures 22 and 23 is identical to the invention.

Regarding claim 7, as best understood, Moriau discloses, in column 5, lines 16-17, rectangular floor panels. Additionally, column 11, lines 26-31, discloses coupling parts 4, 5, 28, and 29 being provided on all four sides of the panel.

Regarding claim 8, as best understood, Examiner considers Moriau as clearly anticipating all the features of claim 8, because the floor element discussed in Moriau and shown in figures 22 and 23 is identical to the invention. Moriau discloses, in column 5, lines 18-22, panels having a length of 1 to 2 meters and a width, but does not specifically disclose a panel width less than 17cm. Examiner interprets Moriau as disclosing panels of any width, including less than 17 cm.

Regarding claim 9, Moriau discloses, in column 5, lines 18-22, panels having a length of 1 to 2 meters and a width, but does not specifically disclose a given panel width. Examiner interprets Moriau as disclosing panels of any width. Consequently, Examiner interprets Moriau as disclosing a panel having a narrow width, such that the panel length is at least eight times the width of the panel.

Regarding claim 22, as best understood, Examiner considers Moriau as clearly anticipating all the features of claim 22, because the floor element discussed in Moriau and shown in figures 22 and 23 is identical to the invention.

Regarding claim 19, Moriau discloses, in column 8, lines 59-64, laminated floor panels having a MDF or HDF core.

Regarding claims 20 and 21, Moriau discloses, in column 5, lines 20-23, floor panels having a thickness of between 5 and 15 mm. Examiner interprets this as including 9 and 10 mm.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-16, and claim 10 as best understood, are rejected under 35

U.S.C. 103(a) as being unpatentable over Moriau in view of Smith.

Regarding claim 10, as best understood, and claim 15, Moriau discloses, in column 5, lines 13-15, hard floor panels, such as laminated panels. Moriau also discloses, in figure 1 a panel having an upper surface and opposed edges. Additionally, Moriau discloses in figure 8 and column 8, line 65 to col. 9, line 4, a decorative layer 55 made of paper imprinted with a variety of patterns on the panel upper surface. However, Moriau does not disclose a beveled surface disposed between the upper surface and edge, and a decorative layer disposed on the beveled surface.

Smith discloses in figure 2, a tile having a beveled surface between a side edge and top surface. Additionally, Smith discloses in column 3, lines 37-41, a decorative sheet 21 secured at the beveled edges.

Therefore, Examiner believes it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Moriau to include a beveled surface between an edge and a top surface of a floor panel, and to dispose a decorative layer on the beveled surface. One of ordinary skill in the art would have modified Moriau to provide a cheaper floor panel.

Regarding claim 11, Examiner interprets the decorative layer 55 of Moriau to be a print.

Regarding claim 12, Examiner interprets the decorative layer 55 of Moriau to be a transfer print. Even though product – by process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.

Therefore, Examiner believes it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Moriau to use a print or transfer print as the decorative layer. One of ordinary skill in the art would have modified Moriau to provide a cheaper floor panel.

Regarding claim 13, Moriau discloses in column 8, lines 48-55, chip board with fine chips for the core material and mixing the chips with a binding agent. Moriau, figure 8, discloses decorative layer 55 disposed on core 8. However, Moriau does not disclose providing a bevel extending into the core material.

Smith discloses, in figure 2, providing a bevel which extends into the material of the core 16.

Therefore, Examiner believes it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Moriau to include a beveled surface between an edge and a top surface of a floor panel which extends into the core material. One of ordinary skill in the art would have modified Moriau to provide a cheaper floor panel.

Regarding claim 14, Moriau discloses in column 8, line 65 – column 9, line 4, decorative layer 55 made of paper imprinted with a variety of patterns.

Regarding claim 16, Moriau does not disclose a moisture-proof, impermeable decorative print layer being disposed on each bevel.

Smith discloses in column 3, lines 37-41, a decorative thermoplastic sheet 21 disposed on the beveled surfaces.

Therefore, Examiner believes it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Moriau to include a beveled surface between an edge and a top surface of a floor panel and to dispose a moisture-proof, impermeable decorative print layer thereon. One of ordinary skill in the art would have modified Moriau to provide a cheaper floor panel.

Claims 2, 3, and 5, and claims 4 and 17 as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Moriau in view of Smith.

Regarding claims 2, 3, 5, and claims 4 and 17 as best understood, Moriau discloses, in column 5, lines 13-15, hard floor panels, such as laminated panels. Moriau also discloses, in figure 1 a panel having an upper surface and opposed edges. Additionally, Moriau discloses in figure 8 and column 8, line 65 to col. 9, line 4, a decorative layer 55 made of paper imprinted with a variety of patterns on the panel upper surface. Moriau also discloses a lateral contact surfaces 84 which fit up against one another near the top sides of the panels. However, Moriau does not disclose a beveled surface disposed between the upper surface and edge, the beveled surface being at 45 degrees relative to the top surface, and the bevel being 2mm.

Smith discloses in figure 2, a tile having a beveled surface between a side edge and the top surface and being oriented at 45 degrees to the panel surface. Because Smith does not specify the size of the beveled surface, Examiner interprets the size of the bevel as including 2mm.

Therefore, Examiner believes it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Moriau to include a beveled surface between an edge and a top surface of a floor panel, oriented at 45 degrees and being 2mm. One of ordinary skill in the art would have modified Moriau to provide a cheaper floor panel.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moriau in view of Smith.

Regarding claim 18, Moriau discloses, in column 5, lines 13-15, hard floor panels, such as laminated panels. Moriau also discloses, in column 8, lines 59-64, a laminated flooring panel having an MDF or HDF core, and a backing layer 58 disposed on the panel underside. However, Moriau does not disclose the backing layer being made from a polyethylene based material. Examiner understands polyethylene to be a thermoplastic material.

Smith discloses in column 2, lines 70-71, a thermoplastic decorative sheet 21 covering the face and sides of a panel.

Therefore, Examiner believes it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Moriau to include a thermoplastic layer on the bottom of the panel. One of ordinary skill in the art would have modified


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Moriau to provide panel having a smooth, uniform plastic covering along the bottom surface of the panel.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Kevin McDermott, whose telephone number is 703-308-8266.


BETH A. STEPHAN
PRIMARY EXAMINER

KM 2/08/02